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Serial No. 09/720,252

**LISTING OF THE CLAIMS:**

- 1-62. (canceled)
63. (previously presented) The process of claim 70 wherein the expression cassette optionally lacks all or part of AAV inverted repeat sequences (ITRs).
64. (currently amended) The process of claim 70 wherein the cassette is integrated into the non-essential U<sub>s</sub> or U<sub>L</sub> region of the HV genome is U<sub>s</sub> or U<sub>L</sub>.
65. (previously presented) The process of claim 70 wherein the herpes virus lacks gene UL9.
66. (previously presented) The process of claim 70 wherein the expression cassette further comprises a reporter gene.
67. (previously presented) The process of claim 70 wherein the HV is selected from the group of Herpesviridae consisting of herpes simplex virus (HSV), cytomegalovirus (CMV), pseudorabies virus (PRV), Epstein-Barr virus (EBV) and other herpesvirus family members.
68. (previously presented) The process of claim 70 wherein the HV is identified as a herpes simplex virus (HSV).
69. (previously presented) The process of claim 70 wherein the HV is the recombinant HSV-1 having ECACC accession number V97111302.
70. (currently amended) A process for preparing a recombinant herpes virus (rHV) comprising the steps:  
preparing an expression cassette that includes an adeno-associated virus (AAV) *rep* and an AAV *cap* gene each operably linked to a promoter;

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Serial No. 09/720,252

integrating said cassette into a herpes virus (HV) genome ~~non-essential region of the genome of a herpes virus (HV)~~ to obtain rHV; and  
replicating the rHV in a host cell without reversion to the corresponding HV sequence lacking AAV *rep* and *cap* gene sequences under replication conditions as determined subsequent to at least 3, 5, or 7 dilution steps by a plaque assay.

71. (previously presented) The process of claim 70, wherein the *rep* and *cap* genes are integrated into the HV genome by restriction cleavage/ligation or by homologous recombination.
72. (canceled)
73. (previously presented) The process of claim 70 wherein the rHV further comprises a selected heterologous gene of interest operably linked to a promoter comprised within the expression cassette.
74. (previously presented) The process of claim 73 wherein the heterologous gene of interest encodes a therapeutically active polypeptide.
75. (previously presented) The process of claim 70 wherein the host cell is a mammalian cell.
76. (previously presented) The process of claim 75 wherein the mammalian cell is selected from the group consisting of HeLa, BHK21 and Vero cells.
- 77-79. (canceled)
80. (previously presented) A recombinant herpes virus having ECACC accession number V97111302.

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Serial No. 09/720,252

81. (previously presented) A recombinant herpes simplex virus prepared from HSV-1 strain 1802 by insertion of an expression cassette comprising AAV *rep* and *cap* genes each operatively linked to a promoter into an *Xba*I unique restriction site of said strain 1802.